

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-6791**

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ANTHONY JAMES BRAXTON,

Plaintiff - Appellant,

versus

WILBUR R. TONEY, Oak Hill City Judge; DALE  
PAYNE, Fayette County Magistrate Judge; CITY  
OF OAK HILL; STATE OF WEST VIRGINIA,

Defendants - Appellees.

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Appeal from the United States District Court for the Southern  
District of West Virginia, at Beckley. David A. Faber, Chief  
District Judge. (CA-03-638-5)

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Submitted: January 13, 2005

Decided: January 19, 2005

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Before WIDENER, NIEMEYER, and GREGORY, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Anthony James Braxton, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Anthony James Braxton appeals the district court's order adopting the report and recommendation of the magistrate judge, denying leave to amend his complaint, and dismissing his action under 42 U.S.C. § 1983 (2000). We have reviewed the record and find no abuse of discretion or reversible error. Accordingly, we grant leave to proceed in forma pauperis and affirm on the reasoning of the district court. See Braxton v. Toney, CA-03-638-5 (S.D.W. Va., Mar. 29, 2004 & filed May 17, 2004; entered May 18, 2004). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED